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**UNITED STATES DEPARTMENT OF COMMERCE****Pat nt and Trademark Office**

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PL

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/390,228	09/03/99	OTOBA	M 10873.274US1

MERCHANT & GROULD P.C.
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90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-4131

IM62/0310

EXAMINER

ANGEBRANNDT, M

ART UNIT

PAPER NUMBER

1756

DATE MAILED:

4
03/10/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.
09/390,228

Applicant(s)
Otoha et al.

Examiner
Martin J. Angebrannt

Group Art Unit
1756



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire ----NO---- month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-74 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-74 are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1756

1 Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-28,30,50-64 and 74 and 54-57, drawn to an optical recording media with a protective layer and a barrier layer including phase change recording materials and nominal process of use classified therewith, classified in class 430, subclass 270.13.
- II. Claims 1-28,30,50-64 and 74 and 54-57, drawn to use of optical recording media with a protective layer and a barrier layer including phase change recording materials, classified in class 430, subclass 270.13.
- III. Claims 32-49 and 65-73, drawn to a barrier layer produced by sputtering methods, classified in class 204, subclass 192.11.

2 Inventions group I and II are not separate and distinct at this time as the process of use is nominal for the article.

3 Inventions group III and group I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the optical recording medium may be made using vapor deposition (incl. CVD) or sol-gel processes for forming the protective and barrier layers.

4 Inventions group III and group II are related as process of making and process of use. The inventions are distinct if either or both of the following can be shown: (1) that the process as

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claimed can be used to make other and materially different products than those used in the process of use or (2) that the product used in the process of use as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the optical recording medium may be made using vapor deposition (incl. CVD) or sol-gel processes for forming the protective and barrier layers.

5 Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.

6 Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7 A telephone call was made to Douglas Mueller (30,300) on March 8, 2000 to request an oral election to the above restriction requirement, but did not result in an election being made.

8 Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

9 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin Angebrannndt whose telephone number is (703) 308-4397.

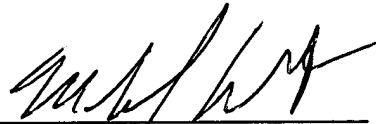
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I am normally available between 7:30 AM and 5:00 PM, Monday through Thursday and 7:30 AM and 4:00 PM on alternate Fridays.

If repeated attempts to reach me are unsuccessful, my supervisor may be reached at (703) 308-4552.

Facsimile correspondence should be directed to (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Martin J. Angebranndt
Primary Examiner, Group 1750
March 8, 2000